

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Ex.FA.No. 23 of 2007()

AGAINST THE ORDER DATED 31/01/07 & 02/02/2007 IN EA.1559/05 IN EP.22/04 IN
OS.210/1998 of II ADDL.SUB COURT,THRISSUR

APPELLANT/PETITIONER:

KOCHAKKAN, S/O.VELAYUDHAN
OTTAPPATH HOUSE, KANNAMKULANGARA, CHIYYARAM,
THRISSUR.

BY ADV. SRI.K.A.SREEJITH

RESPONDENT/RESPONDENT:

VYAPARAVIJAYAM CHITS AND LOANS PVT. LTD.
THRISSUR.

BY ADV. SRI.N.SUKUMARAN
SRI.S.SHYAM

THIS EXECUTION FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

EX.F.A.NO.23 OF 2007

Dated 3rd August, 2006

JUDGMENT

Koshy, J.

This appeal is filed against the order passed in E.A.No.1559/2005. Against the petitioner a money decree was passed and respondent filed an execution petition as E.P.No.22/2004. When the case up for admission, it was submitted by the appellant that he is prepared to pay the amount and he wants some time. It is submitted that in execution of the decree, residential property of the petitioner is sold for a lower amount to the decree holder.

2. Heard the counsel for the respondent also. Decree holder is entitled to the benefit of the decree and he cannot be kept waiting for long. Decree became final. After hearing the parties, we are of the view that sale can be set aside if the entire decree amount is paid in three equal instalments. First instalment should be

paid on or before 8.9.2007 and balance amount should be paid in two equal instalments or before 8.10.2007 and 8.11.2007 respectively. If the amounts are paid accordingly, the order of the court below shall stand set aside and re-conveyance shall be made at the expenses of the petitioner. If the instalment is not paid as mentioned, the same shall stand confirmed. With the above observations this Execution First Appeal is disposed of.

J.B.KOSHY, JUDGE

V.GIRI, JUDGE

prp